

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GEORGE MORRIS,  
Plaintiff,  
  
v.  
  
SOLARCITY CORP.,  
Defendant.

Case No. [15-cv-05107-RS](#)

**ORDER RE MOTION TO DISMISS,  
STRIKE, AND STAY, AND RE MOTION  
TO SHORTEN TIME**

Defendant SolarCity Corp. has filed a motion seeking (1) dismissal under Rule 12(b)(6) of the Federal Rules of Civil Procedure, (2) striking of the class action allegations, (3) a stay of discovery pending any determination that plaintiff has stated a viable claim, or (4) a stay of the entire action pending a Supreme Court decision in *Spokeo, Inc. v. Robins*, 135 S. Ct. 1892 (2015), which involves the question of whether a claim for statutory damages gives rise to Article III standing in the absence of actual damages. In lieu of opposing the motion the prongs of the motion seeking dismissal or striking of the class allegations, plaintiff has filed an amended complaint. Neither party, therefore, contemplates that portion of the motion will go forward, and SolarCity has indicated it will file a new motion to dismiss and strike. Accordingly, the portion of the motion seeking dismissal or to strike the class allegations is denied, without prejudice to SolarCity's right to bring a new motion, based on some or all of the same arguments, directed at the First Amended Complaint.

Plaintiff has filed written opposition to the prongs of the motion seeking a stay of

1 discovery or a stay of the entire action. SolarCity's reply brief on those issues is not due until  
2 February 16, 2016, and the motion is not set to be heard until March 17, 2016. Because plaintiff  
3 has served certain discovery that requires responses in the interim, SolarCity has filed a motion  
4 under Civil Local Rule 6-3 to shorten time for hearing the motion to stay. Good cause appearing,  
5 it is ordered as follows:

6 1. SolarCity shall file its reply brief regarding a stay of discovery pending any  
7 determination that plaintiff has stated a viable claim, or stay of the entire action pending a decision  
8 in *Spokeo*, as scheduled, on or before February 16, 2016.

9 2. Pursuant to Civil Local Rule 7-1(b), those issues will then be submitted for decision  
10 without oral argument, and the hearing set for March 17, 2016 is vacated.

11 3. SolarCity is hereby relieved from the obligation to respond to the pending discovery  
12 requests until seven days after any ruling denying both the motion for a discovery stay and a stay  
13 of the entire action.

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15 **IT IS SO ORDERED.**

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17 Dated: February 9, 2016

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20 RICHARD SEEBORG  
21 United States District Judge  
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